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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/709,554

05/13/2004

Samuel Tocalino

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3553

35204 7590 02/14/2007
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EXAMINER

HARCOURT, BRAD

ART UNIT

PAPER NUMBER

3672

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/709,554	TOCALINO ET AL.	
	Examiner	Art Unit	
	Brad Harcourt	3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/08/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-21 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/08/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 7-10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rickey (US Patent No. 4,646,839).

Rickey discloses a gravel packing apparatus 25 comprising work string 10; pistons 25b and 25c that act as plugs and separate fluid above the plugs from fluid below; locking recess 15e that acts as a plug catcher and has an internal profile to arrest movement of the apparatus; outlet 21a that acts as a crossover, and well screen 24 mounted below outlet 21a. Pistons 25b and 25c facilitate movement of the entire apparatus up or down the work string by fluid pressure applied to them while still sealingly engaging the wellbore. In reference to claim 9, the slurry is pumped through apparatus 25 and into central conduit 25a that is below the plug assembly 25b and 25c.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rickey (US Patent No. 4,646,839) in view of Dotson (US Patent No. 4,577,689).

Rickey discloses all of the limitations of the claims above with the exception of a plug head in which the plug initially resides. However, Dotson discloses a method of determining fracture pressure comprising a borehole 20; casing 21; a slidable plug 24; and a plug head 17 that initially stores plug 24. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include a plug head on the gravel packer of Rickey in view of Dotson to provide an apparatus for the plug to inject the plug into the well bore.

Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rickey (US Patent No. 4,646,839) in view of Tessier (US Patent No. 6,951,246).

Rickey discloses all of the limitations of the above claims with the exception of using a plug including ribs and a frangible diaphragm. Tessier discloses a cementing plug 10 disposed in production casing 15 comprising wipers 25; core 20; bore 21; and top end of core 22 includes a rupture diaphragm 23 which ruptures at "a predetermined pressure" (co.4, lines 15-16). All external portions of core 20 and wipers 25 are covered with elastomeric covering 24. While the plug is disclosed for usage in a cementing operation, it is structurally the same and functions in substantially the same manner as a plug that would be used in a gravel packing operation. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include a rupturable plug on the gravel packer tool of Rickey in view of Tessier to allow fluids to eventually pass through a plug after the gravel packing is complete.

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Response to Arguments

Applicant's arguments filed 12/08/2006 have been fully considered but they are not persuasive.

The applicant argues that Rickey (US Patent No. 4,646,839) discloses pistons 25b and 25c that do not plug the flow of fluid but rather freely allow the passage of slurry to the perforated casing area 20 and therefore do not satisfy the limitations of claim 1. However, the flowline tool 25 includes "piston unit 25b in order to propel the TFL tool 25" (col. 5, lines 21-22) into the pipe string 10 and the H-type crossover member 15. For the pistons 25b and 25c to propel anything through the bore by fluid movement, they would have to prevent fluid from passing it by plugging the bore and preventing fluid from seeping past them. The fact that the pistons 25b and 25c move (with the flowline tool 25) as a function of fluid pressure does not change the fact that they act as plugs.

Allowable Subject Matter

Claims 11-21 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brad Harcourt whose telephone number is 571-272-7303. The examiner can normally be reached on Monday through Friday from 8:30 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David Bagnell
Supervisory Patent Examiner
Art Unit 3672


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BH

2/09/07


Jennifer H. Gay
Primary Examiner